

Message Text

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PAGE 01 MONTEV 01395 091258 Z

47

ACTION ARA-17

INFO OCT-01 ADP-00 CIAE-00 DODE-00 PM-09 H-02 INR-10 L-03

NSAE-00 NSC-10 PA-03 RSC-01 PRS-01 SS-15 USIA-12 EB-11

COME-00 AID-20 TRSE-00 OMB-01 OPIC-12 RSR-01 /129 W

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R 082#24 Z MAY 73

FM AMEMBASSY MONTEVIDEO

TO SECSTATE WASHDC 4395

C O N F I D E N T I A L MONTEVIDEO 1395

E. O. 11652: GDS

TAGS: BDIS, PINT, UY, US

SUBJECT: DISCUSSION OF AMCO- PUBLIC WORKS MINISTRY DISPUTE WITH
FOREIGN MINISTRY' S LEGAL ADVISOR

REF : MONTEVIDEO 1357

1. PURSUANT TO MY CONVERSATION WITH FOREIGN MINISTER BLANCO MAY 4 (REFTEL), EMBOFF MET MAY 7 WITH MINISTRY' S LEGAL ADVISOR, DR. EDISON GONZALEZ LAPEYRE, TO REVIEW CURRENT STATUS OF DISPUTE BETWEEN AMCO- REPUBLIC INTERNATIONAL AND THE GOU MINISTRY OF PUBLIC WORKS.

2. EMBOFF POINTED OUT THAT DEPARTMENT' S POSITION IN THIS MATTER WAS FOUNDED ON THE " RESTRICTIVE THEORY" CONCEPT OF SOVEREIGN IMMUNITY AS SET FORTH IN THE TATE LETTER OF MAY, 1952. GONZALEZ INDICATED THAT HE WAS CONVERSANT WITH TATE CONCEPT. HE NOTED THAT AMBASSADOR LUISI HAD REQUESTED THAT THE DEPARTMENT INFORM THE CALIFORNIA COURT NOW TRYING THIS CASE OF THE GOU' S IMMUNITY FROM SUIT. IN THE MINISTRY' S VIEW, THE CONSTRUCTION OF PUBLIC ROADS IS A GOVERNMENTAL ACT, CONSISTENT WITH THE " JURE IMPERII" CONCEPT. HE HOPED THE DEPARTMENT' S REPLY TO AMBASSADOR LUISI' S NOTE WOULD RECOGNIZE THIS.

3. GONZALEZ APPEARED SURPRISED AND SHOCKED TO LEARN THAT A REPLY HAD ALREADY BEEN MADE LAST OCTOBER TO LUISI' S NOTE. HE
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REQUESTED AND RECEIVED A COPY OF THE DEPARTMENT'S REPLY, AND NOTED WITH SOME EMBARRASSMENT THAT AMBASSADOR LUISI HAD NEITHER INFORMED THE MINISTRY OF THE FACT THAT DEPARTMENT'S REPLY HAD BEEN UNFAVORABLE NOR PROVIDED IT WITH A COPY OF THE DEPARTMENT'S POSITION.

4. GONZALEZ THEN ASKED WHETHER IT WOULD BE POSSIBLE TO SECURE THE " MEMORANDUM OF LAW" OR THE ANTECEDENTS USED BY THE DEPARTMENT TO ARRIVE AT THIS OPINION. HE SAID THAT HE THOUGHT IT IMPORTANT THAT THE GOU HAVE A VERY CLEAR UNDERSTANDING OF OUR DELINEATION BETWEEN PUBLIC OR GOVERNMENTAL AND PRIVATE OR COMMERCIAL ACTS. WOULD, FOR EXAMPLE, THE PURCHASE BY THE MINISTRY OF DEFENSE OF A MILITARY AIRCRAFT FROM A U. S. COMPANY FOR THE " DEFENSE OF URUGUAYAN SOVEREIGNTY" BE CONSIDERED A COMMERCIAL TRANSACTION?

5. RETURNING TO THE AMCO CASE, GONZALEZ OPINED THAT " ALL WE CAN DO NOW IS CROSS OUR FINGERS AND WAIT FOR THE COURT'S DECISION". HOWEVER, HE REPEATED THAT THE DOMESTIC POLITICAL REACTION TO AN EFFORT BY REPUBLIC INTERNATIONAL TO EMBARGO URUGUAYAN ASSETS WOULD BE " VERY SEVERE".

6. COMMENT: GONZALEZ SAID HE RECOGNIZED THAT THE BACKGROUND TO THE DEPARTMENT'S OPINION IN THIS CASE MIGHT WELL BE CLASSIFIED (" RESERVADO"). HOWEVER, IF THERE IS ANY MATERIAL AVAILABLE ON THIS GENERAL AREA WHICH WE COULD PROVIDE TO GONZALEZ, WE ARE CERTAIN HE WOULD BE MOST GRATEFUL.

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*** Current Handling Restrictions *** n/a

*** Current Classification *** CONFIDENTIAL

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*** Current Handling Restrictions *** n/a
*** Current Classification *** CONFIDENTIAL

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